

REMARKS/ARGUMENTS

Re-examination in favor of reconsideration in light of the following comments are respectfully requested.

In the office action mailed March 6, 2008, the examiner required restriction between the following groups of invention:

Group I: Claims 13-21, drawn to a harvester for a forestry machine, classified in class 144, subclass 4.1; and

Group II: Claims 22-24 drawn to a method of measuring a transverse dimension of a tree stem, classified in class 144, subclass 336.

Applicant hereby elects the invention of Group I, claims 13-21 for the purposes of examination. This election is made with traverse.

The Examiner in making the Restriction requirement has stated that the process as claimed can be practiced by another materially different apparatus. The Examiner took note that the invention of Group I cannot practice the invention of Group II as the invention of Group II requires a pair of measurement means moving towards tree stem, registering pair of readout diodes and calculating the dimension of the stem. The invention of Group I according to the Examiner does not require a pair of measurement means and instead utilizes first and second measurement means wherein the first measurement device measures the tree length and is silent to any movement of the first measurement device towards a tree resulting in any read off values.

Applicant hereby traverses the Restriction requirement because the examiner has not set forth any materially

different apparatus which can be used to perform the claimed process. The Restriction requirement is totally silent on this point and, therefore, the Examiner has failed to meet the examiner's burden of establishing the propriety of the Restriction requirement.

Applicant further notes that the measurement devices, which measure length and transverse dimensions, respectively of the tree trunk, with the measurement means, are included in the second measurement device. The measurement means could have the shape of photocells or ultrasound devices and generally operate as a pair. In Applicant's opinion, the Examiner has a misunderstanding regarding the "measurement devices" and "measurement means". This misunderstanding has led to the Restriction requirement which as indicated above is improper.

Certainly, it would work no hardship for the Examiner to examine and search the subject matter of claims 22-24. In fact, the Examiner has to conduct a search on this subject matter in order to do a complete search of the elected invention.

For these reasons, the Examiner is requested to withdraw the Restriction requirement.

Should the Examiner believe an amendment is needed to place the case in condition for allowance, the Examiner can is hereby invited to contact Applicant's attorney at the telephone number listed below.

An early action on the merits is respectfully requested.

No fee is believed to be due as a result of this response. Should the Director determine that a fee is due, he is hereby authorized to charge that fee to Deposit Account No. 02-0184.

Respectfully submitted,

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